

Amendment No. 1 to SB0582

Beavers
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 582

House Bill No. 43*

by deleting all language following the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 55-10-403, is amended by deleting subsection (s) and substituting instead the following:

(s)

(1) In addition to the punishment provided in subsection (a), a person convicted of violating the provisions of § 55-10-401 for the first time shall be punished as follows: the court shall sentence the person to confinement in the county jail or workhouse for not less than forty-eight (48) hours nor more than eleven (11) months and twenty-nine (29) days, and, as a condition of probation, to remove litter during daylight hours from state route highways or state-aid highways, as provided in subdivisions (s)(2)-(9) for a period of twenty-four (24) hours. The period of litter removal shall be served in three (3) shifts of eight (8) consecutive hours each; and

(2) If the offender is a resident of Tennessee, the litter removal portion of the sentence shall occur in the offender's county of residence through the appropriate probation office or state litter removal grant director. If the offender is not a resident of Tennessee, the litter removal portion of the sentence shall occur in the county where the violation occurred.

(3) In order to reimburse the probation office for costs related to the supervision of the offender while on a litter removal work crew, the offender shall pay to the probation office or county official who administers the state litter removal grant a fee equivalent to the jailer's fee for misdemeanants established pursuant to § 8-26-105(a) for each day the offender participates in a litter removal program. The fee must be received

by the probation office before the office certifies that the offender has completed this condition of probation.

(4) Upon request, the probation office or county official who administers the state litter removal grant shall provide the offender with a schedule of the times and dates when litter removal crews will be working. Crews shall only be scheduled to work during daylight hours and only on public roadways or publicly-owned property. The probation office or county official who administers the state litter removal grant should attempt to provide enough opportunities to work on a litter removal crew that an offender may complete the required three (3) days of litter removal within a ninety-day period. Offenders may work with other prisoners on litter removal crews organized by the county or a municipality within the county. The offender shall notify the probation office not less than twenty-four (24) hours in advance of a scheduled work date to indicate that the offender desires to participate. The probation office or county official who administers the state litter removal grant, may set a maximum number of participants on a work crew and allow participation on a first-come, first-serve basis. The offender is responsible for arranging transportation to and from the work site or other location where the probation office directs offenders to report. Except for the vest required by subdivision (s)(5), offenders are also responsible for furnishing their own clothing and food while engaged in litter removal.

(5) Each offender ordered to remove litter pursuant to this subsection (s) shall be required to wear a blaze orange or other distinctively colored vest with the words "I AM A DRUNK DRIVER" stenciled or otherwise written on the back of the vest, in letters no less than four inches (4²) in height.

(6) It shall be within the discretion of the probation office or county official who administers the state litter removal grant to select the public roadways or publicly-owned property from which offenders remove litter. If the highway selected is a state route highway, the department of transportation shall provide a truck or trucks to remove the litter removed by the offenders. If the highway selected is a state-aid highway, the

appropriate county shall provide a truck or trucks to remove the litter removed by the offenders.

(7) The probation office or county official who administers the state litter removal grant may enter into agreements with any city or municipality located within the county in which offenders sentenced pursuant to this section may be used to remove litter from public roadways or publicly-owned property located within the limits of the city or municipality. The agreement may provide that the city or municipality assume responsibility for the supervision and control of the offenders.

(8) If any entity receives funds under § 41-2-123(c), the offenders shall be the responsibility of the entity supervising that program and under that entity's supervision and control. In any county where that is the case, the term "probation office" as used in this subsection (s) shall be interpreted instead to mean the individual or department head in charge of the alternative program.

(9) No probation office or county official who administers the state litter removal grant shall be permitted to use an offender sentenced pursuant to this subsection (s) to perform any task other than litter removal.

(10) Nothing in this subsection shall be construed to require that the state board of probation and parole supervise DUI offenders engaged in the DUI offender litter removal program established by this subsection or otherwise be involved in such program.

SECTION 2. This act shall take effect July 1, 2008, the public welfare requiring it.